

HOUSE BILL No. 4576

April 10, 1989, Introduced by Reps. Terrell, DeMars, Hunter, Stallworth, Honigman, Bennane, Harrison, Leland, Joe Young, Sr., Kilpatrick, Power, Sikkema, Martin and Bandstra and referred to the Committee on Judiciary.

A bill to amend the title and sections 1 and 4 of Act No. 205 of the Public Acts of 1956, entitled "The paternity act," as amended by Act No. 107 of the Public Acts of 1986, being sections 722.711 and 722.714 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 1 and 4 of Act No. 205 of
2 the Public Acts of 1956, as amended by Act No. 107 of the Public
3 Acts of 1986, being sections 722.711 and 722.714 of the Michigan
4 Compiled Laws, are amended to read as follows:

TITLE

5
6 An act to confer upon ~~circuit courts~~ THE DOMESTIC RELA-
7 TIONS COURT jurisdiction over proceedings to compel and provide
8 support of children born out of wedlock; to prescribe the
9 procedure for determination of ~~such~~ liability FOR SUPPORT; to

1 authorize agreements providing for THE furnishing of ~~such~~
2 support and to provide for the enforcement ~~thereof~~ OF THE
3 AGREEMENTS; and to prescribe penalties. ~~for the violation of~~
4 ~~certain provisions of this act.~~

5 Sec. 1. As used in this act:

6 (a) "Child born out of wedlock" means a child ~~begotten and~~
7 born to a woman who was not married from the conception to the
8 date of birth of the child, or a child which the court has deter-
9 mined to be a child born or conceived during a marriage but not
10 the issue of that marriage.

11 (b) "Child" means a child born out of wedlock.

12 (c) "Mother" means the mother of a child born out of
13 wedlock.

14 (d) "Court" means the ~~circuit~~ DOMESTIC RELATIONS court.

15 Sec. 4. (1) A proceeding ~~in accordance with~~ UNDER this
16 act shall be brought by the mother, the father, or the department
17 of social services as provided in this act. ~~Complaints~~ A
18 COMPLAINT shall be made in the county where the mother and child
19 or 1 of them ~~reside~~ RESIDES. If both the mother and child
20 reside outside this state, ~~then~~ the complaint shall be made in
21 the county where the putative father resides or is found. The
22 fact that the child was conceived or born outside of this state
23 shall not be a bar to entering a complaint against the putative
24 father.

25 (2) Proceedings ~~in pursuance of~~ UNDER this act may be
26 instituted during the pregnancy of the mother or at any time
27 before the child reaches 18 years of age. This subsection shall

1 apply regardless of whether the cause of action accrued before
2 June 1, 1986 and regardless of whether the cause of action was
3 barred under this subsection before June 1, 1986.

4 (3) A complaint under this act shall be filed in the
5 ~~circuit~~ DOMESTIC RELATIONS court. If the county department of
6 social services of the county in which the complainant mother
7 resides first determines her to be eligible for public assistance
8 or to be without means to employ an attorney or if the department
9 of social services is the complainant or if the complainant
10 mother or child is receiving services under part D of Title IV of
11 the social security act, 42 U.S.C. 651 to 667, then the prosecut-
12 ing attorney or an attorney employed by the county pursuant to
13 section 1 of Act No. 15 of the Public Acts of 1941, as amended,
14 being section 49.71 of the Michigan Compiled Laws, shall repre-
15 sent the complainant mother in initiating and conducting the pro-
16 ceedings under this act. The prosecuting attorney shall utilize
17 the child support formula developed under section 19 of the
18 friend of the court act, Act No. 294 of the Public Acts of 1982,
19 being section 552.519 of the Michigan Compiled Laws, as a guide-
20 line in petitioning for child support. A complaint filed under
21 this act by the mother of the child shall be verified by the
22 mother by oath or affirmation.

23 (4) A complainant mother shall charge the person named as
24 defendant with being the father of the child and state the time
25 and place, as near as possible, when and where the mother became
26 pregnant. If the department of social services is the

1 complainant, the person named as defendant shall be charged upon
2 information and belief.

3 (5) Upon the filing of a complaint by the mother of the
4 child, the court shall issue a summons against the alleged
5 father. Upon the alleged father appearing before the court by
6 virtue of the summons, the court ~~thereupon, or as soon thereaf-~~
7 ~~ter as may be,~~ shall proceed with the trial of the case. The
8 summons shall be in such form as the court may determine and
9 shall be served in the same manner as is provided by court rules
10 for the service of process in civil actions.

11 (6) The father or putative father of a child born out of
12 wedlock may file a complaint in the ~~circuit~~ DOMESTIC RELATIONS
13 court in the county in which the child or mother resides or is
14 found, praying for the entry of the order of filiation as pro-
15 vided for in section 7. The mother of the child shall be made a
16 party defendant and notified of the hearing on the complaint by
17 summons which shall be in such form as the court shall determine
18 and shall be served in the same manner as is provided by court
19 rules for the service of process in civil actions. The court,
20 following the hearing, may enter an order of filiation which
21 shall have the same effect, be subject to the same provisions,
22 and enforced in the same manner as an order of filiation would be
23 if entered on complaint of the mother.

24 (7) It shall be unnecessary in any proceedings under this
25 act commenced by or against a minor to have a next friend or
26 guardian ad litem appointed for the minor unless required by the
27 ~~circuit~~ DOMESTIC RELATIONS COURT judge. A minor may prosecute

1 or defend any proceedings in the same manner and with the same
2 effect as if he or she were of legal age.

3 (8) If a child born out of wedlock is being supported in
4 whole or in part by public assistance, the department of social
5 services may file a complaint on behalf of the child in the
6 ~~circuit~~ DOMESTIC RELATIONS court in the county in which the
7 child resides, praying for the entry of the order of filiation,
8 as provided in section 7. The mother of the child shall be made
9 a party plaintiff and notified of the hearing on the complaint by
10 summons which shall be in such form as the court shall determine
11 and shall be served in the same manner as is provided by court
12 rules for the service of process in civil actions. An order of
13 filiation entered under this subsection shall have the same
14 effect, be subject to the same provisions, and enforced in the
15 same manner as an order of filiation would be if entered on com-
16 plaint of the mother. The complaint made by the department of
17 social services shall be verified by the director of social serv-
18 ices, BY his or her designated representative, or by the director
19 of the county department of social services or his or her desig-
20 nated representative of the county in which an action is
21 brought. The action provided for in this subsection may be taken
22 only after the department has unsuccessfully attempted to have
23 the alleged father voluntarily initiate legal action to acknowl-
24 edge paternity.

25 (9) ~~The amendatory act which~~ ACT NO. 107 OF THE PUBLIC
26 ACTS OF 1986, WHICH AMENDED THIS SECTION AND added this
27 subsection, shall not be construed to affect the rights of an

1 indigent defendant in proceedings under this act as established
2 by decisions of the courts of this state before ~~the effective~~
3 ~~date of that amendatory act~~ JUNE 1, 1986.

4 Section 2. This amendatory act shall take effect January 1,
5 1990.

6 Section 3. This amendatory act shall not take effect unless
7 Senate Bill No. _____ or House Bill No. 4567 (request
8 no. 01659'89) of the 85th Legislature is enacted into law.